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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,204	11/09/2000	Jacobus C. Haartsen	34650-00561USPT	4592

23932 7590 03/10/2004  
JENKENS & GILCHRIST, PC  
1445 ROSS AVENUE  
SUITE 3200  
DALLAS, TX 75202

EXAMINER
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PIZARRO, RICARDO M

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/710,204

**Applicant(s)**

HAARTSEN, JACOBUS C.

**Examiner**

Ricardo M. Pizarro

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 10-16, 18-35 is/are allowed.
- 6) ☒ Claim(s) 1,9,17,36,37,39,41,42,45-49,57,58,61 and 62 is/are rejected.
- 7) ☒ Claim(s) 38,40,43,44,50-56,59 and 60 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitehead. US patent No. 5,732,077 ( Whitehead) discloses resource allocation for wireless networks, comprising a system operable to use a ping-pong protocol in order to remain as flexible as possible during traffic allocation ( col 5 lines 7-8), comprising a first unit ( station 10, col 6 line 14, sender in Fig. 4) and a second unit ( station 20, col 6 line 14, receiver in Fig. 4), wherein the first unit is operable to transmit a first packet (request packet send by station 10 towards station 20, col 6 line 18) including a first length indicator towards the second unit( Length ID in request message, col 6 lines 18-21), and wherein the second unit is operable to receive the first packet and then is operable to transmit a second packet ( Permit packet send by station 20 towards

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station 10, col 6 lines 53-54) including a second length indicator toward the first unit, as in claims 1 and 17

3. Claims 36-37, 41-42, 45-46, 47, 48-49, 57-58, 61-62 are rejected under 35 U.S.C. 102(e) as being anticipated by Lazraq.

US patent No. 6,330,435 ( Lazraq et al) discloses a Data packets discard notification system, comprising a system operable to selectively-repeat ARQ scheme ( col 1 line 40) to provide data integrity in error-prone communication environment comprising a first unit and a second unit ( units 902 and 904 in Fig. 9), wherein the first unit is operable to transmit at least one segment towards the second unit ( CDN message sent by transmitter , col 2 lines 43-57), and wherein the second unit is operable to receive all or a portion of the first packet ( receiver request retransmission of the missing cells, col 4 lines 29-30) and then is operable to transmit a second packet including acknowledgment information indicating which if any of the segments were received (col 4 lines 17-20), as in claims 36, 47; said units are operable using a ping-pong protocol ( transmission and retransmission i.e. ping-pong like protocol), as in claims 37, 48; an ARQ scheme works for communicating on a link from the second unit to the first unit ( col 1 line 39) , as in claims 41, 57; each segment includes a sequence number ( col 2 lines 48-51), as in claim 42; the second unit is operable to remove from a receive buffer sequential segments that have been received ( col 1 lines 25-30), as in claims 45, 61; the segments that are not successfully received by the second unit can be repeatedly transmitted with a decreasing repetition interval ( col 4 18-21) , as in claims 46, 62.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazraq in view of Welling

Lazraq did not specifically disclose a round-trip delay between reception of said packets is variable, as in claim 39.

Welling discloses an adaptive ARQ bandwidth allocation ,comprising a round-trip delay between reception of said packets is variable ( col 3 line 56, col 4 line 47 ), as in claim 39.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the adaptive RRT delay with the motivation of obtaining a system that preserves bandwidth and decreases the number of retransmissions of data units missing to a bitmap.

***Allowable Subject Matter***

6. Claims 2-8, 10-16 , 18-35 are allowed.

7. Claims 38, 40, 43-44, 50-56, 59-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

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*Conclusion*

**8. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

March 3, 2004

*Ricardo M. Pizarro*

*Douglas W. Olms*

DOUGLAS OLMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600